

ALASKA DOT&PF TRAAK Program

Property Interest and Property Management Guidance

- I. Property Interest
- II. Maintenance
- III. User Fees

I. Property Interest

All facilities must be located on property where the public has a valid property interest. The interest may be outright ownership by a local agency,¹ or a lease, a property easement, or a deed restriction. The duration of the interest shall, as a minimum, equal the design life of the facility. During the design of the facility, the design life will be documented, typically in the Design Study Report.

For proposed facilities

- to be owned and maintained by a local agency
- that would occupy highway right-of-way

the Department should consider disposal of right-of-way as an alternative to encroachment permit use. In considering disposal, our primary concern is protecting highway right-of-way for current and future transportation needs. Disposal is only appropriate for right-of-way in excess of transportation needs.

II. Maintenance

For facilities where Federal-aid contributed to the design, right-of-way acquisition, or construction, the Department is obligated to maintain, or cause to maintain, the constructed facility (23 CFR 116). A Memorandum of Agreement is required committing the local agency to the assumption of maintenance for facilities:

- owned by the local agency or
- owned by the Department and maintained by a local agency.

The term of the agreement, for facilities owned by local agencies, shall be for the facility's design life as a minimum. It is recommended this agreement be executed early in project development.

Each MOA will include a statement that:

- The local agency will adhere to applicable Federal & State laws and regulations.
- The agreement is the whole agreement between DOT&PF and the local agency.

¹ Municipality, State corporation, the University of Alaska, or State or Federal agency acting as a land manager.

Each MOA will address, as appropriate:

- start date and time frame for performance
- fee structure (rate the public will be charged for use of facility)
- maximum time period for rest stop use at no cost
- reversion clause (necessary if local agency received interest of highway right-of-way at less than market value)
- what constitutes adequate maintenance
- indemnification (State agencies excepted)

III. User Fees

Recreational user fees may be charged for non-highway facilities² constructed with FHWA funding.

Examples include:

- trailheads
- scenic overlooks
- safety waysides³.

Recreational user fees:

1. may be assessed, with no DOT&PF oversight, for parking facilities that are outside the highway right-of-way.
2. may be assessed for parking facilities that are partially or totally contained within the highway right-of-way. However, motorists shall have free access at all times for use as a rest stop. As a guide to separating the recreational use versus rest stop use, if a motorist participates in the recreational function the parking facility supports, the motorist's use can be considered recreation. Recommended maximum stay for rest stop use is 8 hours. Parking that exceeds the maximum stay can be considered recreational.

The maintenance Memorandum of Agreement will specify the fee structure, when applicable, and the period of time available as a rest stop. Fees should not be excessive for the general public and should be structured to cover the costs necessary for the routine maintenance of the facility only.

² "Highway" includes roads, streets, and parkways, and also includes rights-of-way, bridges, railroad-highway crossings, tunnels, drainage structures, signs, guardrails, and protective structures, in connection with highways (23 USC 101).

³ "Safety waysides" support recreation activities (fishing, boat launch) by removing on-highway parking.